

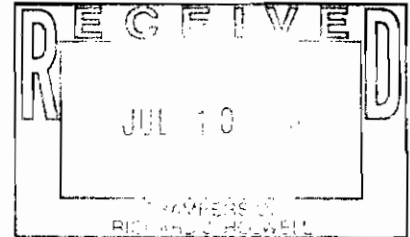
## ARNOLD &amp; PORTER LLP

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July 10, 2007

BY FACSIMILE

The Honorable Richard J. Holwell  
United States District Judge  
United States District Court for the Southern District of New York  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl St., Room 1950  
New York, NY 10007

Re: New York State Restaurant Ass'n v. New York City Board of Health *et al.*  
No. 2007 Civ. 5710 (RJH)

Dear Judge Holwell:

I write on behalf of Plaintiff in the above-referenced matter to request that the Court waive its pre-motion conference requirement to allow Plaintiff to file a partial motion for summary judgment. Defendants have no objection to this request.

On June 15, 2007, Plaintiff filed a Complaint, and by Order To Show Cause moved for declaratory relief seeking judgment that New York City Health Code Section 81.50 is preempted by the Nutrition Labeling and Education Act of 1990, 21 U.S.C. §§ 343, 343-a, and regulations promulgated thereunder. Plaintiff also moved for a preliminary injunction on its First Amendment claim. The Court scheduled a hearing on the motion on July 25, 2007 at 5:00 p.m.

Because twenty days have passed since the filing of the Complaint, Plaintiff wishes to file a motion for partial summary judgment on the preemption claim, resting upon its Memorandum of Law In Support of Plaintiff's Motion for Declaratory Relief and A Preliminary Injunction, filed on June 15, 2007, at pps. 8-18. Plaintiff requests that its motion for partial summary judgment also be heard on July 25, 2007.

In light of Plaintiff's reliance on its previously-filed memorandum, we request that the Court waive the requirement of a pre-motion conference and allow us to file a

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Notice of Motion for Partial Summary Judgment and Local Rule 56.1 Statement  
at this time.

*Application Granted*  
*SO ORDERED*  
*[Signature]*  
*US 05*  
*7/16/07*

Respectfully,

*Nancy G. Milburn*  
Nancy G. Milburn

cc: Mark W. Muschenheim, Esq. (by facsimile)  
New York City Law Department  
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New York, New York 10007